

### **REMARKS**

Upon entry of this Response, claims 1-10, 12-34, and 48-58 remain pending in the present patent application. Claims 1, 2, 4, 5, 8, 18, 25, 28, 48, and 49 have been amended herein. Applicants respectfully request reconsideration of the pending claims in view of the following remarks.

To begin, in item 2 of the Office Action, claims 5 and 8 have been objected to for the formalities noted. Appropriate amendments have been made to claims 5 and 8 to address the objections noted. Therefore, Applicant requests the rejection of claims 5 and 8 be withdrawn.

Next, in item 4 of the Office Action, claims 1-7, 15-17, and 49 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Various amendments have been made to respective ones of these claims to address the formalities noted. Accordingly, Applicant requests that the rejection of claims 1-7, 15-17, and 49 under 35 U.S.C. §112, second paragraph, be withdrawn.

Next, in item 6 of the Office Action, claims 1, 2, and 18 have been rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,034,227, issued to Soot (hereafter "*Soot*"). Anticipation under §102 "requires the disclosure in a single prior art reference of each element of the claim under construction." W.L. Gore & Associates, Inc. v. Garlock, Inc., 220 USPQ 303, 313 (Fed. Cir. 1983). For the reasons that follow, Applicant requests that the rejection of claims 1, 2, and 18 be withdrawn.

To begin, claim 1 has been amended as follows:

1. A container for storing or transporting spent nuclear fuel, the container comprising:
  - a plurality of tubes that receive spent nuclear fuel assemblies, each tube having four sidewalls and four corners defining a rectangular cross section;
  - an attachment means for attaching respective pairs of a plurality of corners of the tubes to each other, at least one corner of a first one of the tubes engaging another corner of a second one of the tubes, the attachment means comprising a plurality of recesses in respective ones of the corners and a plurality of rods that are positioned in the recesses between respective engaged ones of the corners;

each engaged corner of the first and second ones of the tubes being formed from an intersection of a first sidewall and a second sidewall, the first and second side walls being normal to each other;  
the first sidewall of the first one of the tubes and the first sidewall of the second one of the tubes being in substantial alignment;  
the second sidewall of the first one of the tubes and the second sidewall of the second one of the tubes being in substantial alignment; and

***wherein an axial center of each of the rods aligns with a center of the first and second side walls of both the first and second ones of the tubes.***

As set forth above, claim 1 specifies that the axial center of the rods are aligned with the center of the first and second side walls of both the first and second ones of the tubes. The placement of the rods in this location relative to the side walls of the tubes ensures that the forces generated by the compression of the tubes against one another fall along with the side walls themselves. This contrasts with the structures of the prior art in which undesirable stresses are introduced to welds and other attachments employed to affix the tubes to each other. In addition, the tubes can be larger in size, thereby accommodating the storage of a greater amount of spent nuclear fuel within a given container. This is a significant advantage given the cost inherent and storage of spent nuclear fuel. Applicant asserts that *Soot* fails to show or suggest such an element. In particular, the so-called recesses of *Soot* are not in line with the center of the walls of the tubes as depicted, for example, in Figure 8A.

Accordingly, Applicant requests that the rejection of claim 1 as amended be withdrawn. In addition, Applicant requests that the rejection of claim 18 as amended be withdrawn for the same reasons described above with respect to claim 1 to the extent applicable. In addition, Applicant requests that the rejection of claim 2 be withdrawn as depending from claim 1.

Next, in item 9 of the Office Action, claims 3-10, 12-17, 19-34, and 48-58 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Soot* as applied to claim 18, and further in view of US Patent 4,630,738 issued to Bosshard (hereafter "*Bosshard*"). A prima facie case of obviousness is established only when the prior art teaches or suggests all of the elements of the claims. MPEP §2143.03, In re Rijckaert, 9 F.3d 1531, 28 U.S.P.Q2d 1955, 1956 (Fed. Cir. 1993). For the reasons that follow,

Applicant respectfully requests that the rejection of these claims be withdrawn.

Applicant notes that independent claims 1, 18, 28, and 48 have each been amended so as to recite that the axial center of each of the rods aligns with a center of the side walls of the tubes as described above with reference to claim 1. Applicant asserts that the cited combination of *Soot* and *Bosshard* fails to show or suggest at least this element. The independent claims 1, 18, 28, and 48 reciting this element reflect the fact that the invention provides for a significant advantage in that more spent nuclear fuel can be stored within in the tubes as the tubes can be made larger and yet still fit within the same container. Also, the forces that are generated between the respective tubes are generated along the walls themselves, thereby preventing undesirable application of stress to welds and other connection points as is inherent in the structures described by both *Soot* and *Bosshard*. In this respect, the structures described by both *Soot* and *Bosshard* teach away from the present invention.

Given that independent claims 28 and 48 include subject matter similar in scope with claims 1 and 18 described above, Applicant asserts that the cited combination of references fails to show or suggest each of the elements of claims 28 and 48. In addition, Applicant also asserts for the same reasons that the cited combination of references fails to show or suggest each of the elements of claims 1 and 18. Therefore, Applicant respectfully requests that the rejection of claims 28 and 48 be withdrawn. Also, Applicant respectfully requests that the rejection of claims 3-10, 12-17, 19-27, 29-34, 49-51, and 53-58 be withdrawn as depending from claims 1, 18, 28, or 48.

In addition, should the Examiner believe that a telephonic interview with the undersigned would help expedite the earliest issuance of the present application, the Examiner is invited to contact the undersigned.

**CONCLUSION**

It is requested that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding this Response, the Examiner is encouraged to telephone the undersigned counsel of Applicants.

Respectfully submitted,

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